Proposed Amendments to the Community Organization Property Tax Exemption Regulation (AR 281/98)

CONSULTATION DOCUMENT AND QUESTIONNAIRE

Please review the proposed amendments and return your comments by December 31, 2001.

Return completed questionnaire to:

Alberta Municipal Affairs
Municipal Services Branch
Legislative Projects Unit
17th Floor, 10155-102 Street
Edmonton, AB T5J 4L4
Fax: (780) 420-1016

Alberta
MUNICIPAL AFFAIRS

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Office of the Assistant Deputy Minister
Local Government Services

17th floor, Commerce Place
10155 - 102 Street
Edmonton, Alberta
Canada T5J 4L4

Telephone 780/427-9660
Fax 780/427-0453

October 2001

Dear Stakeholder:

This consultation document is intended to present proposed amendments to the *Community Organization Property Tax Exemption Regulation, AR 281/98,* and solicit your comments on them.

The proposed amendments would provide for a property tax exemption to lands currently in conservation use that are held by qualified organizations. This is a property tax exemption that is not dealt with by the present regulation. The proposed amendments have the intention of resolving concerns that under the present system may discourage landowners from conserving land because their lands are assessed at market value. A property tax exemption to owners of these lands held by qualified organizations can act to sustain those conservation activities deemed to be a worthwhile public benefit.

The proposed amendments are the result of extensive review and consultation by the MLA Farm Property Assessment Review Committee with the Alberta Association of Municipal Districts and Counties, the Alberta Urban Municipalities Association, municipalities, agriculture producer organizations and individual Albertans.

The consultation document also introduces a proposed amendment that seeks to maintain the eligibility for property tax exemption for community organizations that choose to lapse their membership within their respective Edmonton Federation of Community Leagues or Federation of Calgary Communities.

We invite you to submit your comments by **December 31, 2001,** to:

Mr. Ron Cust
Legislative Projects Unit
17th Floor, Commerce Place 10155 – 102 Street Edmonton, AB T5J 4L4
Fax: (780) 420-1016 E-mail: ron.cust@gov.ab.ca

You may also complete the consultation questionnaire on the Local Government Services consultation interface at http://cnn12.gov.ab.ca/ma/consultation1.

Thank you for your participation in this important consultation process.

Yours truly,

Brad Pickering
Assistant Deputy Minister

102-07166/

PROPOSED AMENDMENTS TO THE *COMMUNITY ORGANIZATION PROPERTY TAX EXEMPTION REGULATION AR 281/98*

Consultation Document

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Current Regulation – *Community Organization Property Tax Exemption Regulation AR 281/98*

Consultation Document

Introduction

The Community Organization Property Tax Exemption Regulation AR 281/98 addresses non-profit organization tax exemption issues by providing consistent rules for the tax treatment of some non-profit organizations and clarity regarding who is eligible for tax exempt status.

However, there is no specific provision in the present regulation to exempt property that is in active conservation use by owners who have entered into long-term agreements with committed conservation organizations. Land that is in conservation use is usually assessed on the basis of its market value and taxed accordingly.

The *MLA Farm Property Assessment Review Committee* was mandated, in part, with the responsibility of recommending a solution to the taxation of property utilized for conservation purposes. Stakeholder response in its consultations on this matter have indicated that taxing of conservation lands currently assessed on the basis of market value could discourage landowners from conserving land.

The *MLA Farm Property Assessment Review Committee* recommended that a tax exemption of some "conservation lands" held by "qualifying organizations" should occur through amendments to the *Community Organization Property Tax Exemption Regulation AR 281/98.*

A second issue has arisen concerning the continuation of property tax relief for those community associations that wish to operate outside of either the Edmonton Federation of Community Leagues or the Federation of Calgary Communities. Currently, community associations who are members of either the Edmonton Federation of Community Leagues or the Federation of Calgary Communities are eligible for an exemption from property tax. An amendment that provides a provision to continue the current eligibility for property tax relief, in addition to the current membership requirement, is necessary for those community associations that wish to operate outside their respective federation.

Consultation Document

Recommendations

It is recommended that amendments be made to the *Community Organization Property Tax Exemption Regulation AR 281/98* to allow the exemption of conservation land held by specified non-profit conservation oriented organizations provided certain qualifying criteria are met.

The proposed amendments to this regulation include two new definitions, "*conservation land*" and "*qualified organization*"; four criteria that must be satisfied before a property tax exemption can occur; and a list of suggested non-profit conservation organizations that may meet the definition for "*qualified organization*".

The proposed amendments seek to incorporate the definitions, and qualifying criteria into Part 3 of the *Community Organization Property Tax Exemption Regulation*. This Part, which refers to *Other Property Exempt Under Section 362(1)(n)* of the *Municipal Government Act*, deals with tax exemptions that do not qualify in any of the other sections of the regulation.

It is also recommended that an amendment be made to continue the eligibility for property tax exemption for those community associations that choose to operate outside of membership in either the Edmonton Federation of Community Leagues or the Federation of Calgary Communities. This proposed amendment is recommended for incorporation into Part 2, *Qualifications for Exemptions Under Section 362(1)(n)(ii) to (v)*.

It is also recommended that Part 4 *(Transitional Matters)* and redundant provisions of Part 5 be repealed, as these provisions are no longer required, and the remaining parts and sections renumbered accordingly.

Consultation Document

Proposed New Definitions

The MLA Farm Property Assessment Review Committee recommended that the following two definitions be included:

"Conservation Land" means a parcel or designated part of a parcel of land held by a qualified organization, where the use of the property is the conservation activity that has been detailed by the holder in a conservation use plan.

"Qualified Organization" means a non-profit organization that actively manages conservation projects in the province through third party agreements and/or ownership of property to achieve the specified objectives detailed in a conservation use plan for the purpose of species protection (both plant and wildlife), and land preservation through protection and enhancement of natural scenic and esthetic values.

Eligibility Criteria for Conservation Land Use Property Tax Relief

1. The conservation land must be held by and utilized by a non-profit organization actively managing conservation projects.

2. The conservation project must have long-term scope or be a capital project that will have long-term results (e.g., earthworks, water consolidation), and protection of landscape through active project management.

3. The conservation project must have a conservation use plan that clearly states the objective and steps of the specific project.

4. The conservation project must ensure that an earnest application of conservation commitment exists and that the public good is being served by the project.

Consultation Document

Discussion of Criteria

The first criteria establishes the necessity of control and use of the property by a non-profit organization whose principal existence is to actively promote long-term conservation projects and that the majority of the property or part of the property is engaged in an established conservation use.

The second criteria establishes the necessity of a long-term scope of the conservation property use. Examples might include capital projects such as the consolidation of watersheds, earthworks or protection of landscape through fencing, seeding or cutting to support and sustain a particular type of wildlife or plant habitat

The third criteria echoes the requirement within the definition of *"qualified organization,"* for a conservation use plan that identifies the specific objective(s) of the project and actions that will lead to their achievement. A list of potential eligible non-profit organizations would be identified in an accompanying minister's guideline.

The final requirement requires the application of local municipal judgment as to whether or not the larger public good is being served and that an earnest application of conservation commitment exists before an exemption can be provided.

Proposed List of Eligible Non-profit Organizations

The MLA Farm Property Assessment Review Committee considered it important to specify those non-profit organizations that have publicly demonstrated a professional record of commitment to long-term conservation project management by including them in a minister's guideline. The following organizations are suggested as potential candidates that would meet the definition of *"qualified organization"* as a condition for this proposed property tax exemption.

- Nature Conservancy of Canada
- Ducks Unlimited
- Rocky Mountain Elk Foundation
- Southern Alberta Land Trust
- Alberta Conservation Association
- National Audubon Society
- Canadian Nature Federation
- Municipalities

Any organization approved by the Minister of Municipal Affairs on the recommendation of the Minister of Environment or the Minister of Sustainable Development.

Consultation Document

Amendment for Edmonton and Calgary Community Associations

Community Associations provide public benefit in some of the following ways:

- promoting the identity and activities of an area or neighborhood within a larger municipal jurisdiction;
- delivering programs that respond to public/taxpayer needs that are not met by either the public or private sector;
- offering a venue for social inclusion and expression by Albertan citizens irrespective of race, age or origin;
- providing a training arena for volunteers and those interested in contributing to public leadership; and
- providing "grassroots" information centers concerning the current issues facing its area or residents.

Historically, municipalities have supported the "good works" of community associations. By their very nature community organizations must be evolving entities to better respond to the perceived needs of their constituents. Recent restructuring actions within the Edmonton Federation of Community Leagues have resulted in a number of community associations questioning the value of their membership. The proposed amendment seeks to parallel accepted Albertan values by maintaining community organization eligibility for property tax relief separate from their membership status with the Edmonton Federation of Community Leagues or the Federation of Calgary Communities.

Currently, the *Community Organization Property Tax Exemption Regulation* provides community organizations with the eligibility for exemption from property taxation with the primary conditions that they be registered as a non-profit organization under the *Societies Act* and that they must be a member of the Edmonton Federation of Community Leagues or the Federation of Calgary Communities. The proposed amendment aims to ensure consistent application of tax policy by maintaining the eligibility provision for property tax exemption for those community organizations that choose to operate outside of their respective Edmonton or Calgary federation.

Local Government Services **October 2001**

Note: Proposed changes are in bold italics and also marked with an asterisk *.

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Exemption under section 362(1)(n)(iii) of the Act	10	No Change
Exemption under section 362(1)(n)(iv) of the Act	11	No Change
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PART 2

QUALIFICATIONS FOR EXEMPTIONS UNDER SECTION 362(1)(n)(ii) to (v)

Exemption under section 362(1)(n)(v) of the Act

12 (1) The following property is not exempt from taxation under section 362(1)(n)(v0 of the Act:

(a) property to the extent that it is used in the operation of a professional sports franchise;

(b) property if, for more than 40% of the time that the property is in use, the majority of those participating in the activities held on the property are 18 years of age or older.

(c) property in Calgary or Edmonton that is held by and used in connection with a community association if the association is not a member of the Federation of Calgary Communities or the Edmonton Federation of Community Leagues.

**(d) despite subsection (c) property in Calgary or Edmonton that is held by and used in connection with a community association continues to be exempt from property taxation if:*

(i) the organization was a member of the Edmonton Federation of Community Leagues or the Federation of Calgary Communities before December 31, 2001; and

(ii) the property is held by the organization under a lease license, permit or agreement with the City of Edmonton or Calgary.

PART 3

OTHER PROPERTY EXEMPT UNDER SECTION 362(1)(n)

Definitions

13 In this Part,

(a) "arts" means theatre, literature, music, painting, sculpture or graphic arts and includes any other similar creative or interpretive activity;

(b) "chamber of commerce" means a chamber of commerce that is a non-profit organization and is a member of the Alberta Chamber of Commerce;

(c) "ethno-cultural association" means an organization formed for the purpose of serving the interests of a community defined in terms of the racial, cultural, ethnic, national or linguistic origins or interests of its members;

(d) "linguistic organization" means an organization formed for the purpose of promoting the use of English or French in Alberta;

(e) "museum" means a facility that is established for the purpose of conserving, studying, interpreting, assembling and exhibiting, for the instruction and enjoyment of the general public, art, objects or specimens of educational and cultural value or historical, technological, anthropological, scientific or philosophical inventions, instruments, models or designs;

(f) "retail commercial area" means property used to sell food, beverages, merchandise or services;

(g) "sheltered workshop" means a facility designed to provide an occupation for and to promote the adjustment and rehabilitation of persons who would otherwise have difficulty obtaining employment because of physical, mental or developmental disabilities;

(h) "thrift shop" means a retail outlet operated for a charitable or benevolent purpose that sells donated clothing, appliances, furniture, household items and other items of value at a nominal cost to people in need.

**(i) "conservation land" means a parcel or designated part of a parcel of land held by a qualified conservation non-profit organization where the use of the property is the conservation activity that has been detailed by the holder in a conservation use plan.*

**(j) "qualified organization" means a non-profit organization that actively manages conservation projects in the province through third-party agreements and/or ownership of property to achieve the specified program detailed in a conservation use plan for the purpose of species protection (both plant and wildlife), and land preservation through protection and enhancement of natural scenic and aesthetic values.*

Exemption for other property

14 This Part describes property that is exempt from taxation under section 362(1)(n) of the Act that is not exempt under section 362(1)(n)(i) to (v) of the Act.

Day cares, museums and other facilities

15 A non-profit organization that holds property on which any of the following facilities are operated may apply to the municipality within whose area the property is located for an exemption from taxation:

(a) a facility used for sports or recreation to the extent that the facility is not used in the operation of a professional sports franchise;

(b) a facility used for fairs or exhibitions, including agricultural exhibitions;

(c) a facility used for the arts or a museum;

(d) a facility used for the care and supervision of children and that is

(i) a day care facility as defined in the *Day Care Regulation* (AR 333/90), and

(ii) licensed under that Regulation;

(e) a facility used by a linguistic organization if

(i) the use of the property by the general public is actively encouraged, and

(ii) a sign is prominently posted in the facility indicating the hours that the whole or part of the facility is accessible to the public;

(f) a facility used by an ethno-cultural association for sports, recreation or education or for charitable or other benevolent purposes if

(i) the use of the property by the general public is actively encouraged, and

(ii) a sign is prominently posted in the facility indicating the hours that the whole or part of the facility is accessible to the public;

(g) a facility in a municipality operated and used by an organization for a charitable or benevolent purpose where the majority of the organizations beneficiaries do not reside in the municipality;

(h) a facility used as a thrift shop;

(i) a facility used as a sheltered workshop;

(j) a facility operated and used by a chamber of commerce;

(k) a facility used for a charitable or benevolent purpose that is for the benefit of the general public if

(i) the charitable or benevolent purpose for which the facility is primarily used is a purpose that benefits the general public in the community in which the facility is located, and

(ii) the resources of the non-profit organization that holds the facility are devoted chiefly to the charitable or benevolent purpose for which the facility is used.

Qualified organization

****16 (1) For the purposes of the (new) section 16 a "qualified organization" means those organizations named in the Minister's Guidelines for Conservation Organizations.***

Conservation land

(2) A "qualified organization" may apply to the municipality within whose area the property is located, for an exemption from taxation if the following qualifying criteria are met:

(a) the conservation land is held by and utilized by a non-profit organization actively managing conservation projects.

(b) the conservation project must have long-term scope or be a capital project that will have long-term results.

(c) the conservation project must have a conservation use plan that clearly states the objectives of the specific project and that use must be accomplished.

(d) the program must ensure an earnest application of conservation commitment exists and that the public good is being served by the project.

Conditions for exemption

*17**(1) A municipality must grant a non-profit organization an exemption from taxation in a taxation year in respect of property referred to in section 15 ***and (new) section 16**** that is held by the organization if

(a) the non-profit organization makes an application for an exemption to the municipality by November 30 of the year preceding the taxation year and supplies the municipality with the following by February 15 in the taxation year:

(i) any information the municipality requires to determine if the organization meets the conditions for the exemption, and

(ii) a description of any retail commercial areas in the facility,

(b) the facility on the property is one of the facilities described in section 15 and the non-profit organization operates the facility on a non-profit basis,

(c) the funds of the non-profit organization are chiefly used for the purposes of the organization and not for the benefit of the organization's directors and employees,

(d) the property is not disqualified by virtue of subsection (2) or (3), and

(e) the requirements of subsections (4) and (5), if applicable, are met.

(2) Property referred to in section 15(a), (b), (c), (e), (f), (j) or (k) is not exempt from taxation if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7.

(3) Property referred to in section 15(d) or (g) to (i) is not exempt from taxation if an individual is not permitted to use the property because of the individual's race, culture, ethnic origin or religious belief.

(4) Before granting an exemption under this section in respect of a property that is held by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that

(a) the organization will provide the municipality with a report by a time and in a manner specified in the agreement that sets out the information the municipality requires to determine if the organization met the conditions for the exemption during the taxation year, and

(b) if the organization does not comply with the provisions referred to in clause (a), the organization will pay the municipality an amount equivalent to the property taxes that would be payable in respect of the property for the taxation year if the property was not exempt.

(5) Before granting an exemption under this section in respect of a property that is owned by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that

(a) no disposition of the property may be made without the approval of the municipality, and

(b) if the organization is being wound-up and dissolved, the organization must, if required by the municipality, transfer the property to the municipality.

(6) If a municipality grants an exemption to a non-profit organization and later determines that the organization did not meet the conditions that applied to the organization for the exemption for all or part of the taxation year, the municipality may in the taxation year cancel the exemption for all or part of the taxation year, as the case may be, and require the organization to pay property tax in respect of the property for the period that the exemption is cancelled.

Waiver of application requirement

18(1) If a municipality has granted a non-profit organization an exemption from taxation under section *17** in respect of a property, the municipality may grant the non-profit organization an exemption from taxation in the following taxation year under section *17** in respect of the property without requiring the organization to apply for the exemption.

(2) A municipality that has waived an application requirement under subsection (1) in respect of a property for a taxation year may

(a) require the non-profit organization that holds the property to provide any information that the organization may be required to provide if it was applying for an exemption, and

(b) if the non-profit organization does not provide the information, cancel in that taxation year the exemption for all or part of that taxation year and require the organization to pay property tax in respect of the property for the period that the exemption is cancelled.

(3) A municipality may not waive the application requirement under subsection (1) in respect of a property for more than 3 consecutive taxation years.

Retail commercial areas

19(1) In this section, "exempt facility" means a facility or part of a facility held by a non-profit organization, a society as defined in the *Agricultural Societies Act* or a community association that is exempt from taxation under section 362(1)(n)(i) to (v) of the Act or section *17** of this Regulation.

(2) A retail commercial area that is located within an exempt facility is exempt from taxation if

(a) the non-profit organization, society as defined in the *Agricultural Societies Act* or community association that holds the exempt facility also holds and operates the retail commercial area, and

(b) the net income from the retail commercial area is used

(i) to pay all or part of the operational or capital costs of the exempt facility, or

(ii) to pay all or part of the operational or capital costs of any other facility that is held by the non-profit organization, society or community association and that is exempt from taxation under section 362 of the Act or section *17** of this Regulation.

Transitional Matters – current Part 4

Delete this part as it has now expired and there are no further appeals outstanding with respect to 1999.

PART 4

REVIEW

Expiry

20* For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on December 31, 2003.

PROPOSED AMENDMENTS TO THE *COMMUNITY ORGANIZATION PROPERTY TAX EXEMPTION REGULATION AR 281/98*

Stakeholder Questionnaire

Respondent: _____

Position: _____

Representing: _____

Please provide your comments and suggestions to the following:

1. Do you support the proposed definition for "conservation land"?

☐ Support ☐ Conditionally Support ☐ Do Not Support ☐ Not Applicable

Give your reasons for support, non-support or alternative suggestions.

_____

_____

_____

_____

2. Do you support the proposed definition for "qualified organization"?

☐ Support ☐ Conditionally Support ☐ Do Not Support ☐ Not Applicable

Give your reasons for support, non-support or alternative suggestions.

_____

_____

_____

_____

Stakeholder Questionnaire – continued

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3. **Are you in agreement with the proposed eligibility criteria that must be satisfied before a property tax exemption can be extended to a qualified organization managing a conservation project on conservation land?**

☐ Yes ☐ No

If you answered no, please give your reasons/comments.

_____
_____
_____
_____

4. **Are you in agreement with the suggested list of eligible organizations that meet the proposed definition of "qualified organization"?**

☐ Yes ☐ No

If you answered no, please give your reasons/comments.

_____
_____
_____
_____

5. **Can you suggest other organizations that meet the proposed definition of "qualified organization" that should be included in the list?**

☐ Yes ☐ No

If yes, please include your suggested eligible organization(s).

_____
_____
_____
_____

Stakeholder Questionnaire – continued

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6. **Does the proposed amendment accomplish the objective of continued eligibility for community organizations that choose to lapse their membership with the Edmonton Federation of Community Leagues or the Federation of Calgary Communities?**

☐ Yes ☐ No

If not, please include your suggestion.

_____

_____

_____

_____

APPENDIX

CURRENT COMMUNITY ORGANIZATION PROPERTY TAX EXEMPTION REGULATION
AR 281/98

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Interpretation

1(1) In this Regulation,

(a) "Act" means the *Municipal Government Act*;

(b) "charitable or benevolent purpose" means the relief of poverty, the advancement of education, the advancement of religion or any other purpose beneficial to the community;

(c) "general public" means pertaining to the general community, rather than a group with limited membership or a group of business associates;

(d) "professional sports franchise" means a professional sports franchise operating in the National Hockey League, the Canadian Football League, the National Professional Soccer League or the Pacific Coast League;

(e) "taxation" means taxation under Division 2 of Part 10 of the Act.

(2) For the purposes of the Act and this Regulation, "community association" means an organization where membership is voluntary, but restricted to residents of a specific area, and that is formed for the purpose of

(a) enhancing the quality of life for residents of the area or enhancing the programs, public facilities or services provided to the residents of the area, or

(b) providing non-profit sporting, educational, social, recreational or other activities to the residents of the area.

(3) The definitions in sections 1 and 284 of the Act apply to this Regulation.

Application

2 This Regulation applies to taxation in 1999 and later years.

Part of a property

3 An exemption under section 362(1)(n)(i) to (v) of the Act or Part 3 of this Regulation applies only to the part of a property that qualifies for the exemption.

Primary use of property

4(1) Property is not exempt from taxation under section 362(1)(n)(iii), (iv) or (v) of the Act or Part 3 of this Regulation unless the property is primarily used for the purpose or use described in those provisions.

(2) For the purposes of this Regulation, a property is primarily used for a purpose or use if the property is used for the specified purpose or use at least 60% of the time that the property is in use.

Holding property

5 When section 362(1)(n)(i) to (v) of the Act or Part 3 of this Regulation requires property to be held by a non-profit organization, a society as defined in the *Agricultural Societies Act* or a community association for the property to be exempt from taxation, the property is not exempt unless

(a) the organization, society or association is the owner of the property and the property is not subject to a lease, licence or permit, or

(b) the organization, society or association holds the property under a lease, licence or permit.

Non-profit organization

6 When section 362(1)(n)(i) to (v) of the Act or Part 3 of this Regulation requires property to be held by a non-profit organization or community association for the property to be exempt from taxation, the property is not exempt unless

(a) the organization or association is a society incorporated under the Societies Act, or

(b) the organization or association is

(i) a corporation incorporated in any jurisdiction, or

(ii) any other entity established under a federal law or law of Alberta

that is prohibited, by the laws of the jurisdiction governing its formation or establishment, from distributing income or property to its shareholders or members during its existence.

Meaning of restricted

7(1) In this Regulation, a reference to the use of property being restricted means, subject to subsections (2) and (3), that individuals are restricted from using the property on any basis,

including a restriction based on

(a) race, culture, ethnic origin or religious belief,

(b) the ownership of property,

(c) the requirement to pay fees of any kind, other than minor entrance or service fees, or

(d) the requirement to become a member of an organization.

(2) The requirement to become a member of an organization does not make the use of the property restricted so long as

(a) membership in the organization is not restricted on any basis, other than the requirement to fill out an application and pay a minor membership fee, and

(b) membership occurs within a short period of time after any application or minor fee requirement is satisfied.

(3) Not permitting an individual to use a property for safety or liability reasons or because the individual's use of the property would contravene a law does not make the use of the property restricted.

Gaming and liquor licences

8(1) For the purposes of section 365(2) of the Act, property described in section 362(1)(n) of the Act and Part 3 of this Regulation in respect of which a bingo licence, casino licence, pull ticket licence, Class C liquor licence or a special event licence is issued under the *Gaming and Liquor Regulation* (AR 143/96) is exempt from taxation if the requirements of section 362(1)(n) and this Regulation in respect of the property are met.

(2) Despite subsection (1), property in respect of which a bingo facility licence or casino facility licence is issued is not exempt from taxation.

PART 2

QUALIFICATIONS FOR EXEMPTIONS UNDER SECTION 362(1)(n)(ii) TO (v)

Exemption under section 362(1)(n)(ii) of the Act

9(1) The following property is not exempt from taxation under section 362(1)(n)(ii) of the Act:

(a) property to the extent that it is used in the operation of a professional sports franchise;

(b) property that is used solely for community games, sports, athletics or recreation if, for more than 40% of the time that the property is in use, the majority of those participating in the activities held on the property are 18 years of age or older.

(2) Property is not exempt from taxation under section 362(1)(n)(ii) of the Act if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7 as modified by subsection (3).

(3) For the purposes of subsection (2), limiting the participation in activities held on a property to persons of a certain age does not make the use of the property restricted.

Exemption under section 362(1)(n)(iii) of the Act

10(1) Property referred to in section 362(1)(n)(iii) of the Act is not exempt from taxation unless

(a) the charitable or benevolent purpose for which the property is primarily used is a purpose that benefits the general public in the community in which the property is located, and

(b) the resources of the non-profit organization that holds the property are devoted chiefly to the charitable or benevolent purpose for which the property is used.

(2) Property is not exempt from taxation under section 362(1)(n)(iii) of the Act if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7.

Exemption under section 362(1)(n)(iv) of the Act

11 Property referred to in section 362(1)(n)(iv) of the Act is not exempt from taxation unless the accommodation provided to senior citizens is subsidized accommodation as defined in the *General Regulation* (AR 213/94).

Exemption under section 362(1)(n)(v) of the Act

12(1) The following property is not exempt from taxation under section 362(1)(n)(v) of the Act:

(a) property to the extent that it is used in the operation of a professional sports franchise;

(b) property if, for more than 40% of the time that the property is in use, the majority of those participating in the activities held on the property are 18 years of age or older;

(c) property in Calgary or Edmonton that is held by and used in connection with a community association if the association is not a member of the Federation of Calgary Communities or the Edmonton Federation of Community Leagues.

(2) Property is not exempt from taxation under section 362(1)(n)(v) of the Act if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7 as modified by subsection (3).

(3) For the purposes of subsection (2), limiting the participation in activities held on a property to persons of a certain age does not make the use of the property restricted.

PART 3

OTHER PROPERTY EXEMPT UNDER SECTION 362(1)(n)

Definitions

13 In this section,

(a) "arts" means theatre, literature, music, painting, sculpture or graphic arts and includes any other similar creative or interpretive activity;

(b) "chamber of commerce" means a chamber of commerce that is a non-profit organization and is a member of the Alberta Chamber of Commerce;

(c) "ethno-cultural association" means an organization formed for the purpose of serving the interests of a community defined in terms of the racial, cultural, ethnic, national or linguistic origins or interests of its members;

(d) "linguistic organization" means an organization formed for the purpose of promoting the use of English or French in Alberta;

(e) "museum" means a facility that is established for the purpose of conserving, studying, interpreting, assembling and exhibiting, for the instruction and enjoyment of the general public, art, objects or specimens of educational and cultural value or historical, technological, anthropological, scientific or philosophical inventions, instruments,

models or designs;

(f) "retail commercial area" means property used to sell food, beverages, merchandise or services;

(g) "sheltered workshop" means a facility designed to provide an occupation for and to promote the adjustment and rehabilitation of persons who would otherwise have difficulty obtaining employment because of physical, mental or developmental disabilities;

(h) "thrift shop" means a retail outlet operated for a charitable or benevolent purpose that sells donated clothing, appliances, furniture, household items and other items of value at a nominal cost to people in need.

Exemption for other property

14 This Part describes property that is exempt from taxation under section 362(1)(n) of the Act that is not exempt under section 362(1)(n)(i) to (v) of the Act.

Day cares, museums and other facilities

15 A non-profit organization that holds property on which any of the following facilities are operated may apply to the municipality within whose area the property is located for an exemption from taxation:

(a) a facility used for sports or recreation to the extent that the facility is not used in the operation of a professional sports franchise;

(b) a facility used for fairs or exhibitions, including agricultural exhibitions;

(c) a facility used for the arts or a museum;

(d) a facility used for the care and supervision of children and that is

(i) a day care facility as defined in the *Day Care Regulation* (AR 333/90), and

(ii) licensed under that Regulation;

(e) a facility used by a linguistic organization if

(i) the use of the property by the general public is actively encouraged, and

(ii) a sign is prominently posted in the facility indicating the hours that the whole or part of the facility is accessible to the public;

(f) a facility used by an ethno-cultural association for sports, recreation or education or for charitable or other benevolent purposes if

(i) the use of the property by the general public is actively encouraged, and

(ii) a sign is prominently posted in the facility indicating the hours that the whole or part of the facility is accessible to the public;

(g) a facility in a municipality operated and used by an organization for a charitable or benevolent purpose where the majority of the organization's beneficiaries do not reside in the municipality;

(h) a facility used as a thrift shop;

(i) a facility used as a sheltered workshop;

(j) a facility operated and used by a chamber of commerce;

(k) a facility used for a charitable or benevolent purpose that is for the benefit of the general public if

(i) the charitable or benevolent purpose for which the facility is primarily used is a purpose that benefits the general public in the community in which the facility is located, and

(ii) the resources of the non-profit organization that holds the facility are devoted chiefly to the charitable or benevolent purpose for which the facility is used.

Conditions for exemption

16(1) A municipality must grant a non-profit organization an exemption from taxation in a taxation year in respect of property referred to in section 15 that is held by the organization if

(a) the non-profit organization makes an application for an exemption to the municipality by November 30 of the year preceding the taxation year and supplies the municipality with the following by February 15 in the taxation year:

(i) any information the municipality requires to determine if the organization meets the conditions for the exemption, and

(ii) a description of any retail commercial areas in the facility,

(b) the facility on the property is one of the facilities described in section 15 and the non-profit organization operates the facility on a non-profit basis,

(c) the funds of the non-profit organization are chiefly used for the purposes of the organization and not for the benefit of the organization's directors and employees,

(d) the property is not disqualified by virtue of subsection (2) or (3), and

(e) the requirements of subsections (4) and (5), if applicable, are met.

(2) Property referred to in section 15(a), (b), (c), (e), (f), (j) or (k) is not exempt from taxation if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7.

(3) Property referred to in section 15(d) or (g) to (i) is not exempt from taxation if an individual is not permitted to use the property because of the individual's race, culture, ethnic origin or religious belief.

(4) Before granting an exemption under this section in respect of a property that is held by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that

(a) the organization will provide the municipality with a report by a time and in a manner specified in the agreement that sets out the information the municipality requires to determine if the organization met the conditions for the exemption during the taxation year, and

(b) if the organization does not comply with the provisions referred to in clause (a), the organization will pay the municipality an amount equivalent to the property taxes that would be payable in respect of the property for the taxation year if the property was not exempt.

(5) Before granting an exemption under this section in respect of a property that is owned by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that

(a) no disposition of the property may be made without the approval of the municipality, and

(b) if the organization is being wound-up and dissolved, the organization must, if required by the municipality, transfer the property to the municipality.

(6) If a municipality grants an exemption to a non-profit organization and later determines that the organization did not meet the conditions that applied to the organization for the exemption for all or part of the taxation year, the municipality may in the taxation year cancel the exemption for all or part of the taxation year, as the case may be, and require the organization to pay property tax in respect of the property for the period that the exemption is cancelled.

Waiver of application requirement

17(1) If a municipality has granted a non-profit organization an exemption from taxation under section 16 in respect of a property, the municipality may grant the non-profit organization an exemption from taxation in the following taxation year under section 16 in respect of the property without requiring the organization to apply for the exemption.

(2) A municipality that has waived an application requirement under subsection (1) in respect of a property for a taxation year may

(a) require the non-profit organization that holds the property to provide any information that the organization may be required to provide if it was applying for an exemption, and

(b) if the non-profit organization does not provide the information, cancel in that taxation year the exemption for all or part of that taxation year and require the organization to pay property tax in respect of the property for the period that the exemption is cancelled.

(3) A municipality may not waive the application requirement under subsection (1) in respect of a property for more than 3 consecutive taxation years.

Retail commercial areas

18(1) In this section, "exempt facility" means a facility or part of a facility held by a non-profit organization, a society as defined in the *Agricultural Societies Act* or a community association that is exempt from taxation under section 362(1)(n)(i) to (v) of the Act or section 16 of this Regulation.

(2) A retail commercial area that is located within an exempt facility is exempt from taxation if

(a) the non-profit organization, society as defined in the *Agricultural Societies Act* or community association that holds the exempt facility also holds and operates the retail commercial area, and

(b) the net income from the retail commercial area is used

(i) to pay all or part of the operational or capital costs of the exempt facility, or

(ii) to pay all or part of the operational or capital costs of any other facility that is held by the non-profit organization, society or community association and that is exempt from taxation under section 362 of the Act or section 16 of this Regulation.

PART 4

TRANSITIONAL MATTERS

Application for 1999 exemption

19(1) For the 1999 taxation year, a municipality may grant a non-profit organization an exemption from taxation in respect of property under section 16 if the organization makes an application for the exemption to the municipality by April 30, 1999 and supplies the information described in section 16(1)(a)(i) and (ii) by May 31, 1999.

(2) A municipality may, in respect of a non-profit organization, establish dates that are later than those referred to in subsection (1) for making an application or supplying information.

Requirements for 1999 exemption

20(1) This section applies to the 1999 taxation year.

(2) A municipality may grant a non-profit organization an exemption from taxation in respect of property referred to in section 15 that is held by the organization only if

(a) the facility on the property or any retail commercial area in the facility does not provide significant competition with one or more taxable businesses in the municipality or surrounding area, and

(b) the municipality is satisfied that the operations of the non-profit organization on the property provide significant benefits.

(3) Despite subsection (2), a municipality may, in respect of a non-profit organization, waive either or both of the requirements in subsection (2)(a) and (b).

Waiver of application requirement in 1999

21 For the 1999 taxation year, the power of a municipality to waive an application requirement under section 17(1) also applies when the municipality has granted an exemption from taxation under section 15 of the *Community Organization 1998 Property Tax Exemption Regulation* (AR 289/97).

PART 5

REPEAL AND REVIEW

Repeal

22(1) The *Community Organization 1998 Property Tax Exemption Regulation* (AR 289/97) is repealed.

(2) Despite the repeal of the *Community Organization 1998 Property Tax Exemption Regulation* (AR 289/97), that Regulation continues to apply to taxation in 1998.

Expiry

23 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on December 31, 2003.